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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,615	01/30/2006	Kym John Keightley	1849023US1ANP	9089

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EXAMINER

BOSWELL, CHRISTOPHER J

ART UNIT	PAPER NUMBER
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3673

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/536,615	Applicant(s) KEIGHTLEY, KYM JOHN	
	Examiner CHRISTOPHER BOSWELL	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 November 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The amendment filed August 6, 2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: This is a continuation-in-part of U.S. Application Serial No. 10/276,547, now Patent No. 6,964,183 having a 371(c) date of November 14, 2002; the application being a National Stage filing of PCT/AU01/00579 having an international filing date of May 18, 2001, which application claims priority from Australian Application PQ7576, filed May 18, 2000; the entire disclosures of which are incorporated herein by reference." Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by International Application WO 01/88315 to Keightley.

Keightley teaches a dual lock apparatus including a locking bolt (14) moveable between an extended position outwardly and a second position inwardly, the apparatus including a slider

(32) moveable between a first position and a second position and including a first end associated with the locking bolt such that movement of the slider causes corresponding movement of the locking bolt, and a second end associated with a key lock (52) and a motor lock (74) whereby independent operation of the first and motor lock is controlled by a clutch mechanism (mechanism established from components 62 and 80), the clutch mechanism including an aperture (opening in which the clutch mechanism extends through, as seen in figure 9) which extends through the slider and a coupling member (62) moveable between at least a first and second position within the slider aperture, the motor lock including a slidable member (68) moveable between a first and second position, the member including an outwardly biased locking member (80) adapted to engage the slider aperture to thereby mechanically connect the motor lock with the slider to thereby effect movement of the slider upon movement of the member, the key lock including a rotatable cam (54) such that when rotated the cam acts against the piston to thereby move the coupling member from the first position to the second position to thereby mechanically connect the key lock with the slider to thereby effect movement of the slider, as in claim 1.

Keightley teaches the dual lock apparatus wherein the key lock disengages the motor lock (page 5, lines 10-14), as in claim 2, as well as the key lock has locked the locking bolt, the motor lock cannot lock the locking bolt (page 10, lines 5-14), as in claim 3, and the motor lock is electrically driven (page 8, lines 6-10), as in claim 4, and where the key lock is a key activated locking means (52) while the motor lock is an electromechanical locking means (74), as in claim 5, and where both the key lock and the motor lock are key activated (page 12, lines 16-19), as in

6, additionally the slider interacts with the locking bolt so as to move into the first position (via groove 38), and the slider resists withdrawal of the locking bolt (via slot 44), as in claim 7.

Keightley teaches a dual lock apparatus including a locking bolt (14) moveable between a first locked position to engage with an external restraining means and a second unlocked position, the apparatus including a slider (32) adapted to interact with the locking bolt so as to move it into the first and second position, the slider including at one end an aperture (opening in which the clutch mechanism extends through, as seen in figure 9) extending perpendicularly to the direction of motion of the slider, the aperture adapted to house a slider abutment member (62), the slider abutment member being moveable between a first position (figures 5d and 5e) whereby a surface of the slider abutment member is flush with a surface of the slider and a second position (figure 9) whereby the surface of the slider abutment member is housed within the aperture, a carriage (48) associated with the slider, the carriage including an abutment surface (50) the carriage further being moveable between a first position wherein the slider is located in the slider second position, and a second position thereby urging the slider into the slider first position, a key lock (52) having a rotatable cam (54) such that when rotated in a first direction so as to act against the carriage abutment surface thereby urging the carriage into the carriage second position and the slider abutment member into the first position to thereby urge the slider towards its first position and thereby outwardly extend the locking bolt, and when the cam is rotated in an opposite direction it acts to thereby urge the slider towards its second position to thereby inwardly retract the bolt, and a motor lock (74) capable of being activated independent of the key lock and including a moveable member (68) associated with the slider and being

moveable between a first position whereby the locking bolt is inwardly retracted and a second position whereby the locking bolt is outwardly extended, the moveable member including a rack cavity (76) that houses (via element 82) an outwardly biased pin (80) and being moveable between a first and a second position, in the first position (figure 5a) the pin engaging with the slider aperture to thereby effectively mechanically couple the motor lock to the slider and thus the locking bolt and in the second position (figure 5i) the pin forced into the rack cavity whereby the slider may freely move to thereby effectively decouple the motor lock from the slider, this occurring when the slider abutment member is in the member first position, as in claim 8.

Keightley teaches the dual lock apparatus further comprising a biasing member (85) and wherein when the cam discontinues urging of the carriage, the biasing member acts upon the pin to return it to the first position upon alignment of the pint the slider aperture, as in claim 9.

Keightley teaches a dual lock apparatus of the type including a locking bolt (14) moveable between a first locked position and a second unlocked position, the bolt movement corresponding with longitudinal movement of a slider (32), the apparatus including a key locking means (52) and a motor locking means (74) capable of operating independently of one another, the key locking means including a rotatable cam (54) such that when rotated the cam acts against a moveable coupling member (62) to thereby move the coupling member from a first position (figure 5a) to a second position (figure 5i) in which the motor locking means becomes disengaged from the slider and further rotation of the cam urges longitudinal movement of the slider (via slot 38), the motor lock including an electric motor (74) in geared connection to a member (68) moveable between a first position and a second position corresponding with the

respective locked and unlocked positions of the locking bolt, the member including an outwardly biased pin (80) adapted to engage a cylinder (the outwardly biased pin engages with the abutment surface 50 which is substantially cylindrical in shape) associated with the coupling member and thereby urge the coupling member into the coupling member first position to thereby mechanically couple the motor lock with the slider, as in claim 10.

Response to Arguments

Applicant's arguments filed August 6, 2007 have been fully considered but they are not persuasive. Regarding the remarks that the current application claims priority to Australian application PC 7576, PCT/AU01/00579, US application 10/276,574, Australian application AU 20022653027, and PCT/AU03/01596, the reference to add the prior-filed applications is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)).

If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Moreover, applicants may not add a foreign priority benefit claim to a national stage application submitted under 35 U.S.C. 371. Foreign priority in a national phase application is governed by 35 U.S.C. 365(b), which requires, *inter alia*, compliance with the PCT and PCT Regulations. In the present case, the priority claim to Australian Application PQ7576 does not comply with PCT Rules 4.10 and 26bis. Thus, the request to add Australian Application PQ7576 as a foreign priority can not be accepted in this national phase application.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER BOSWELL whose telephone number is (571)272-7054. The examiner can normally be reached on 9:00 - 4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher Boswell
Examiner
Art Unit 3673

/Patricia L Engle/
Supervisory Patent Examiner,
Art Unit 3673

CJB /cb/
April 28, 2008